

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION

B.P.J., by her next friend and mother,  
HEATHER JACKSON

*Plaintiff,*

v.

WEST VIRGINIA STATE BOARD OF  
EDUCATION, HARRISON COUNTY BOARD  
OF EDUCATION, WEST VIRGINIA  
SECONDARY SCHOOL ACTIVITIES  
COMMISSION, W. CLAYTON BURCH in his  
official capacity as State Superintendent,  
DORA STUTLER in her official capacity as  
Harrison County Superintendent, and THE  
STATE OF WEST VIRGINIA

*Defendants*

and

LAINY ARMISTEAD

*Defendant-Intervenor.*

Case No. 2:21-cv-00316

Hon. Joseph R. Goodwin

**ROGER G. BROOKS' DECLARATION IN SUPPORT OF DEFENDANT-INTERVENOR AND THE  
STATE OF WEST VIRGINIA'S MOTIONS TO EXCLUDE EXPERT TESTIMONY OF DRS. ADKINS,  
FRY, JANSSEN, AND SAFER**

I, Roger G. Brooks, declare under penalty of perjury of the laws of the United States that the following is true and correct, and state:

I am counsel of record for Defendant-Intervenor Lainy Armistead in this litigation. The following is true of my own personal knowledge, and, if called as a witness, I would and could testify competently thereto.

As set forth below, I have reviewed the articles and studies used in support of the motions to exclude the certain proffered opinions of Dr. Adkins, Dr. Fry, Dr. Janssen, and Dr. Safer. The copies of the articles identified herein, and submitted in the accompanying Appendix to Defendant Intervenor and the State of West Virginia's Motion to Exclude Expert Testimony of Dr. Deanna Adkins ("Daubert Appendix") at

the pages indicated, are true and correct copies of those articles as obtained from public sources. I identify herein where each source was marked as an exhibit in deposition or cited in an expert's report.

1. Balaguer, I., et al., *Motivational Climate and Goal Orientations as Predictors of Perceptions of Improvement, Satisfaction and Coach Ratings Among Tennis Players*, 9 Scand. J. Med. Sci. Sports 381 (1999), doi: 10.1111/j.1600-0838.1999.tb00260.x.

This source was designated as Fry Deposition Exhibit 5 and is in the Daubert Appendix at page 370.

2. Bhargava, A., et al., *Considering Sex as a Biological Variable in Basic and Clinical Studies: An Endocrine Society Scientific Statement*, 42 Endocr. Revs. 219 (2021), doi: 10.1210/endrev/bnaa034.

This source was designated as Adkins Deposition Exhibit 4 and is in the Daubert Appendix at page 379.

3. Carmichael, P., et al., *Short-term Outcomes of Pubertal Suppression in a Selected Cohort of 12 to 15 Year Old Young People with Persistent Gender Dysphoria in the UK*, 16 PLoS ONE e0243894 (2021), <https://doi.org/10.1371/journal.pone.0243894>.

This source was designated as Janssen Deposition Exhibit 40 and is in the Daubert Appendix at page 419.

4. Clark, C.M., & Kosciw, J.G., *Engaged or Excluded: LGBTQ Youth's Participation in School Sports and Their Relationship to Psychological Well-Being*, 59 Psych. Schs. 95 (2021).

This source was cited at ¶ 52, n. 22 of Rebuttal Expert Report and Declaration of Aron Janssen, M.D. and is in the Daubert Appendix at page 445.

5. Durwood, L., et al., *Mental Health and Self-Worth in Socially Transitioned Transgender Youth*, 56 J. Am. Acad. Child Adolesc. Psychiatry 116 (2017).

This source was designated at Janssen Deposition Exhibit 9 and is in the Daubert Appendix at page 465.

6. Fin. Ministry of Soc. Affairs and Health, Council for Choices in Health Care, *Medical Treatment Methods for Dysphoria Associated with Variations in Gender Identity in Minors—Recommendation* (2020).

This source was cited at ¶ 23 of Declaration of James M. Cantor, PHD. and is in the Daubert Appendix at page 475.

7. Fin. Ministry of Soc. Affairs and Health, Council for Choices in Health Care, Medical Treatments for Gender Dysphoria that Reduces Functional Capacity in Transgender People—Recommendation (2020).

This source was cited at ¶ 23 of Declaration of James M. Cantor, PHD. and is in the Daubert Appendix at page 477.

8. Gibson, D.J., et al., *Evaluation of Anxiety and Depression in a Community Sample of Transgender Youth*, 4 JAMA Network Open e214739 (2021), doi:10.1001/jamanetworkopen.2021.4739.

This source was designated as Janssen Deposition Exhibit 17 and is in the Daubert Appendix at page 479.

9. Handelsman, D.J., et al., *Circulating Testosterone as the Hormonal Basis of Sex Differences in Athletic Performance*, 39 Endocr. Revs. 803 (2018), doi: 10.1210/er.2018-00020.

This source was designated as Safer Deposition Exhibit 4 and is in the Daubert Appendix at page 483.

10. Handelsman, D.J., *Perspective, Transgender Women Outpace Cisgender Women in Athletic Tests After 1 Year on Hormones*, Healio News: LGBTQ+ Health Updates (Dec. 16, 2020), <https://www.healio.com/news/endocrinology/20201216/transgender-women-outpace-cisgender-women-in-athletic-tests-after-1-year-on-hormones>.

This source was designated as Safer Deposition Exhibit 13 and is in the Daubert Appendix at page 510.

11. Harper, J., et al., *How does Hormone Transition in Transgender Women Change Body Composition, Muscle Strength and Haemoglobin? Systematic Review with a Focus on Implications for Sport Participation*, Br. J. Sports Med. (Mar. 1, 2021), doi: 10.1136/bjsports-2020-103106 (published online ahead of print).

This source was designated as Safer Deposition Exhibit 12 and is in the Daubert Appendix at page 514.

12. Hembree, W.C., et al., *Endocrine Treatment of Gender-Dysphoric/Gender Incongruent Persons: An Endocrine Society\* Clinical Practice Guideline*, 102 J. Clin. Endocrinol. Metab. 3869 (2017), doi: 10.1210/jc.2017-01658.

This source was designated as Adkins Deposition Exhibit 4 and Safer Deposition Exhibit 8 and is in the Daubert Appendix at page 523.

13. Hilton, E.N. & Lundberg, T.R., *Transgender Women in the Female Category of Sport: Perspectives on Testosterone Suppression and Performance Advantage*, 51 Sports Med. 199 (2021), doi: 10.1007/s40279-020-01389-3.

This source was designated as Safer Deposition Exhibit 7 and is in the Daubert Appendix at page 558.

14. Lapinski, J., et al., *Best Practices in Transgender Health: A Clinician's Guide*, 45 Prim. Care Clin. Office Pract. 687 (2018) doi: 10.1016/j.pop.2018.07.007.

This source was designated as Adkins Deposition Exhibit 6 and is in the Daubert Appendix at page 574.

15. Littman, L., *Individuals Treated for Gender Dysphoria with Medical and/or Surgical Transition Who Subsequently Detransitioned: A Survey of 100 Detransitioners*, 50 Arch. Sex. Behav. 3353 (Oct. 2019), doi: 10.1007/s10508-021-02163-w.

This source was cited at ¶¶ 120, 121, 124, 125, 204 of Declaration of Stephen B. Levine, MD and is in the Daubert Appendix at page 591.

16. MacDonald, D.J., et al., *The Role of Enjoyment and Motivational Climate in Relation to the Personal Development of Team Sport Athletes*, 25 Sport Psych. 32 (2011).

This source was cited in the bibliography of Expert Report and Declaration of Professor Mary D. Fry, PHD and is in the Daubert Appendix at page 608.

17. Nainggolan, L., *Hormonal Tx of Youth with Gender Dysphoria Stops in Sweden*, Medscape (May 21, 2021), <https://www.medscape.com/viewarticle/950964>.

This source was designated as Janssen Deposition Exhibit 12 and is in the Daubert Appendix at page 624.

18. National Institutes of Health, Office of Research on Women's Health, *How Sex and Gender Influence Health and Disease*, [https://orwh.od.nih.gov/sites/orwh/files/docs/SexGenderInfographic\\_11x17\\_508.pdf](https://orwh.od.nih.gov/sites/orwh/files/docs/SexGenderInfographic_11x17_508.pdf). (last visited May 10, 2022).

This source was designated as Adkins Deposition Exhibit 8 and is in the Daubert Appendix at page 627.

19. Newton, M., et al., *Psychometric Properties of the Caring Climate Scale in a Physical Activity Setting*, 16 Revista de Psicología del Deporte 67 (2007), <https://www.redalyc.org/articulo.oa?id=235119232005>.

This source was designated as Fry Deposition Exhibit 5 and is in the Daubert Appendix at page 628.

20. Olson, K.R., et al., *Mental Health of Transgender Children who are Supported in Their Identities*, 137 Pediatrics e20153223 (2015), doi: 10.1542/peds.2015-3223.

This source was cited at ¶ 35, n. 9 of Rebuttal Expert Report and Declaration of Aron Janssen, M.D. and is in the Daubert Appendix at page 647.

21. Ommundsen, Y., et al., *Parental and Coach Support or Pressure on Psychosocial Outcomes of Pediatric Athletes in Soccer*, 16 Clin. J. Sport Med. 522 (2006).

This source was cited at ¶¶ 29, 32, 33, 39 of Expert Report and Declaration of Professor Mary D. Fry, PHD and is in the Daubert Appendix at page 655.

22. Only Human, *I'd Rather Have a Living Son Than a Dead Daughter*, WNYC Studios (Aug. 2, 2016), <https://www.wnycstudios.org/podcasts/onlyhuman/episodes/id-rather-have-living-son-dead-daughter>.

This source was designated as Adkins Deposition Exhibit 15 and is in the Daubert Appendix at page 660.

23. Rae, J.R., et al., *Predicting Early-Childhood Gender Transitions*, 30 Psych. Sci. 669 (2019), doi: 10.1177/0956797619830649.

This source was designated as Janssen Deposition Exhibit 27 and is in the Daubert Appendix at page 678.

24. Roberts, T.A., et al., *Effect of Gender Affirming Hormones on Athletic Performance in Transwomen and Transmen: Implications for Sporting Organisations and Legislators*, Br. J. Sports Med. (Dec. 7, 2020), doi: 10.1136/bjsports-2020-102329 (published online ahead of print).

This source was designated as Safer Deposition Exhibit 10 and is in the Daubert Appendix at page 691.

25. Schumm, W.R., & Crawford, D.W., *Is Research on Transgender Children What it Seems? Comments on Recent Research on Transgender Children with High Levels of Parental Support*, 87 Linacre Q. 9 (2020), doi: 10.1177/0024363919884799.

This source was cited at ¶ 35, n. 9 of Rebuttal Expert Report and Declaration of Aron Janssen, M.D. and is in the Daubert Appendix at page 698.

26. Staphorsius, A.S., et al., *Puberty Suppression and Executive Functioning: An fMRI-Study in Adolescents with Gender Dysphoria*, 56 Psychoneuroendocrinology 190 (2015), doi: 10.1016/j.psyneuen.2015.03.007.

This source was cited at ¶ 24, n. 7 of Expert Rebuttal Report and Declaration of Deanna Adkins, M.D. and is in the Daubert Appendix at page 714.

27. Steensma, T.D., et al., *Factors Associated with Desistence and Persistence of Childhood Gender Dysphoria: A Quantitative Follow-Up Study*, 52 J. Am. Acad. Child & Adolesc. Psychiatry 582 (2013), doi: 10.1016/j.jaac.2013.03.016.

This source was designated as Janssen Deposition Exhibit 27 and is in the Daubert Appendix at page 724.

28. Swedish Agency of Health Technology Assessment and Assessment of Social Services, *Gender dysphoria in Children and Adolescents: An Inventory of the Literature* (2019), <https://www.sbu.se/307e>.

This source was cited at ¶¶ 23, 31, 32 of Declaration of James M. Cantor, PHD. and is in the Daubert Appendix at page 733.

29. Turban, J.L., et al., *Association Between Recalled Exposure to Gender Identity Conversion Efforts and Psychological Distress and Suicide Attempts Among Transgender Adults*, 77 JAMA Psychiatry 68 (2020), doi: 10.1001/jamapsychiatry.2019.2285.

This source was designated as Janssen Deposition Exhibit 43 and is in the Daubert Appendix at page 736.

30. U.K. National Health Serv., National Institute for Health and Care Excellence, *Evidence Review: Gonadotrophin Releasing Hormone Analogues for Children and Adolescents with Gender Dysphoria* (2020).

This source was cited at ¶ 23 of Declaration of James M. Cantor, PHD. and is in the Daubert Appendix at page 754.

31. U.K. Sports Councils' Equality Group, Guidance for Transgender Inclusion in Domestic Sport (2021), <https://equalityinsport.org/docs/300921/Guidance%20for%20Transgender%20Inclusion%20in%20Domestic%20Sport%202021.pdf>.

This source was designated as Safer Deposition Exhibit 14 and is in the Daubert Appendix at page 885.

32. Carbmill Consulting, International Research Literature Review: SCEG Project for Review and Redraft of Guidance for Transgender Inclusion in Domestic Sport 2020, <https://equalityinsport.org/docs/300921/Transgender%20International%20Research%20Literature%20Review%202021.pdf> (last visited May 10, 2022).

This source was cited at ¶¶ 172–74 of Declaration of Gregory A. Brown, PH.D., FACSM and is in the Daubert Appendix at page 900.

33. Whisenant, W. & Jordan, J.S., *Fairness and Enjoyment in School Sponsored Youth Sports*, 43 Int'l R. Socio. Sport 91 (2008), doi: 10.1177/1012690208093470.

This source was designated as Fry Deposition Exhibit 6 and is in the Daubert Appendix at page 914.

34. Hughto, J.M.W., et al., *Transgender Stigma and Health: A Critical Review of Stigma Determinants, Mechanisms, and Interventions*, 147 Soc. Sci. Med. 222 (2015), doi: 10.1016/j.socscimed.2015.11.010.

This source was cited at ¶ 52, n. 22 of Rebuttal Expert Report and Declaration of Aron Janssen, M.D. and is in the Daubert Appendix at page 924.

35. World Health Organization, Gender and Health, [https://www.who.int/health-topics/gender#tab=tab\\_1](https://www.who.int/health-topics/gender#tab=tab_1) (last visited May 10, 2022).

This source was designated as Adkins Deposition Exhibit 9 and is in the Daubert Appendix at page 946.

36. World Professional Association for Transgender Health, Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People, 7th Version (2012), [https://www.wpath.org/media/cms/Documents/SOC%20v7/SOC%20V7\\_English.pdf](https://www.wpath.org/media/cms/Documents/SOC%20v7/SOC%20V7_English.pdf).

This source was cited at ¶ 24, n. 3 of Declaration and Expert Report of Deanna Adkins, M.D. and is in the Daubert Appendix at page 947

37. Saraswat, A., et al., *Evidence Supporting the Biological Nature of Gender Identity*, 21 Endocr. Practice 199 (2015), doi: 10.4158/EP14351.RA.

This source was cited in Exhibit A (Curriculum Vitae) of Expert Report and Declaration of Joshua D. Safer, MD, FACP, FACE, and is in the Daubert Appendix at page 1067.



**DECLARATION UNDER PENALTY OF PERJURY**

I, Roger G. Brooks, a citizen of the United States and a resident of the State of North Carolina, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge.

Executed this 12th day of May, 2022, at Durham, North Carolina.

/s/ Roger G. Brooks

Roger G. Brooks